

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE
WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF
NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Kansas City District

FILE NUMBER: 200601403

REGULATORY PROJECT MANAGER: Matthew J. Mikulecky
PROJECT REVIEW/DETERMINATION COMPLETED:

Date: 4-May-2006
In the office Y (Y/N) **Date:** 4-May-06
At the project site N (Y/N) **Date:**

PROJECT LOCATION INFORMATION:

State: Kansas
County: Marshall County
Center coordinates of site by latitude & longitudinal coordinates: Lat: 39-49-21 Lon: 96-35-06
Approximate size of site (including uplands & in acres): > 80 acres.
Name of waterway or watershed: HUC 10270205-Lower Big Blue

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?					X
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?		X			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:

Preliminary Or Approved X.

OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD:

The Natural Resources Conservation Service (NRCS) identified spring / seep is located in the upper portion of an upland drainage area. At the lower portion of the drainage area, an existing pond collects runoff and any water produced by the seep. The existing pond does not have an overflow pipe or spillway. Information provided by the applicant indicates that the pond has rarely experienced overflow events and that on such occasions, excess water disperses into the floodplain without reaching Spring Creek.

The USGS Quad Map, aerial photos, and NRCS Soil Survey, indicate that the seep is clearly located above the floodplain in an upland position and vanishes into a well-drained floodplain. The spring seep wetland is not considered adjacent to the stream because the two are not connected by a confined flow pathway from the wetland to any water of the United States nor does it appear to have any associated interstate commerce value; therefore, the seep is isolated an non-jurisdictional under Section 404 of the Clean Water Act.